

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: TAM  
Application No.: 09/323,854  
Filing Date: June 2, 1999  
Title: BONE STIMULATING FACTOR  
Art Unit: 1647  
Examiner: David S. Romeo  
Atty's Docket No.: 46913/00047

## TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321

The Commissioner of Patents and Trademarks  
Washington, D.C. 20331  
U.S.A.

Dear Sir:

I, the undersigned certify that, to the best of my knowledge and belief, the assignee Osteopharm Inc. of Unit 14 - 1155 North Service Road West, Oakville, Ontario L6M 3E3 Canada (formerly of 201-5090 Explorer Drive, Mississauga, Ontario L6M 2B7 Canada) is the holder of the entire right, title and interest of the above-captioned patent by virtue of an Assignment submitted for recordation on or about December 16, 2002 (copy attached), which I have duly reviewed.

The undersigned hereby disclaims, except as provided below, the terminal part of the statutory term of the above-captioned patent application as far as claims 49 to 51 and 53 are concerned which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior United States Patent No. 6,117,839, and hereby agrees that claims 49 to 51 and 53 of any patent granted on United States Patent Application Serial No. 09/323,854 shall be enforceable only for and during such period that said patent and the prior patents are commonly owned, this agreement to run with any patent granted on United States Patent Application Serial No. 09/323,854, and to be binding upon the assignee, its successors, or assigns.

The undersigned does not disclaim any terminal part of any patent granted on the above-captioned application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of United States Patent No. 6,117,839, as presently shortened by any terminal disclaimer, in the event that United States Patent No. 6,117,839 later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-captioned application or any patent issued thereon.

The undersigned has been appointed by the inventor as his attorney or agent to prosecute the application identified above. A copy of the authorization is attached, and the undersigned is sending to the United States Patent and Trademark Office today the original signed authorization.

  
\_\_\_\_\_  
John C. Hunt (Registration No. 36,424)

December 30, 2002  
\_\_\_\_\_  
Date

Authorization for the Commissioner to deduct from Deposit Account No. 02-2553 the terminal disclaimer fee under 37 C.F.R. § 1.20(d), of \$110.00 is enclosed.